

THE HON'BLE SRI JUSTICE M.SATYANARAYANA MURTHY

WRIT PETITION NO.16211 OF 2020

ORDER:

This petition is filed under Article 226 of the Constitution of India, claiming the following relief:-

“to issue an appropriate Writ or order or direction, preferably one in the nature of Writ of Mandamus, declaring the action of 3rd respondent in calling the petitioner to the Police Station, G.Konduru, putting him in the police station for hours together unnecessarily and threatening him by using filthy language for resolving the civil disputes in view of gift deed, dated 23.08.2017 with respondents 4 to 6 with reference to three shops situated in D.No.1-12 in R.S.No.182/1A, G.Konduru, Krishna District, without there being registration of any crime against him, as highly illegal, irregular and violative of Articles 14 and 21 of the Constitution of India and consequently direct respondents 1 to 3 not to interfere with the petitioner's life and liberty and to pass such other order.”

2. It is the contention of petitioner that the petitioner is the owner of three shops bearing D.No.1-12 in R.S.No.182/1A, G.Konduru, Krishna District. Respondents 4 and 5 are wife and husband and also tenants of aforesaid three shops. On 29.11.2016 respondents 4 and 5 filed a suit for permanent injunction in O.S.No.200 of 2016 on the file of Junior Civil Judge, Mylavaram against the petitioner and 7th respondent, who is the only neighbour of suit schedule properties and he is no way concerned with the suit litigation.

3. On 30.11.2016 a temporary injunction was ordered in I.A.No.938 of 2016 in O.S.No.200 of 2016 in favour of respondents 4 and 5. In the aforesaid suit counter and written statements were filed by the petitioner and affidavit as examination-in-chief also was

filed by the respondents 4 and 5 herein. On 27.12.2018 the 6th respondent, who is the younger brother of petitioner filed a suit for permanent injunction in O.S.No.203 of 2018 on the file of Junior Civil Judge, Mylavaram relying upon the gift deed dated 23.08.2017, but the said gift deed is fabricated one. Written statements were filed by the petitioner and the matter is coming up for trial. The suit schedule properties of O.S.No.200 of 2016 are included in O.S.No.203 of 2018. On 19.03.2019 petitioner filed a suit for cancellation of the aforesaid gift deed dated 23.08.2017 in O.S.No.55 of 2019 on the file Junior Civil Judge, Mylavaram and all the three suits are pending.

4. Respondents 4 and 5 did not deposit any rent in the Court as tenants of suit schedule shops in O.S.No.200 of 2016. Relying upon the fabricated gift deed dated 23.08.2017, respondents 4 and 5 colluded with younger brother of petitioner i.e., 6th respondent herein. Accordingly, at the behest of respondents 4 to 6, the 3rd respondent herein has been calling the petitioner to the Police Station, G.Konduru, retaining him there for hours together, unnecessarily and threatening him by using filthy language for resolving the civil disputes in view of the aforesaid gift deed without there being registration of any crime against the petitioner. The 3rd respondent is insisting and forcing the petitioner that he should withdraw his suit in O.S.No.55 of 2019 and he should accept that respondents 4 and 5 would pay the arrears to the 6th respondent. Accordingly the 3rd respondent has been contesting the aforesaid three suits. Hence, the petitioner requested this Court to issue necessary direction to the respondent police not to interfere with the civil disputes between the petitioner and unofficial respondents.

5. During the course of hearing, learned counsel for petitioner Sri Y.N.Anjaneyacharyulu reiterated the contentions urged the petition whereas learned Government Pleader for Home fairly conceded that they will not interfere with the civil disputes, unless any crime is registered for commission of any cognizable offence.

6. Undoubtedly, respondent police have nothing to do with the civil disputes. In the present case civil suits are pending at the stage of trial as narrated above. However, the respondent police are interfering with the civil disputes.

7. In a similar situation in a judgment in **J.Lakshmi @ Lakshamamma and another vs. Commissioner of Police and Others**¹, a direction was issued to the police not to interfere with the civil disputes while referring the directions issued by the Court reported in **Masthan Saheb v. P.S.R. Anjaneyulu**² as wells as guidelines issued by the Union of India vide Ministry of Home Affairs Letters No.VI-24021797/84-GPA.1, dated 04.07.1985 and 10.07.1985 summarized the legal position as under:-

The Supreme Court has repeatedly held that when the dispute is purely of civil nature, the jurisdiction under Article 226 of the Constitution cannot be exercised. The Supreme Court also repeatedly laid down that when the dispute between the two citizens is of civil nature and no crime is registered, police have no jurisdiction to interfere in the civil dispute. Further, when there is a civil litigation either before the court of law or before the tribunal, the police have no jurisdiction to interfere in the civil disputes. Further, when there is a civil litigation either before a court of law or before a tribunal, the police cannot interfere and even if a complaint is made in relation to such dispute pending in a civil court, the citizens have to be advised to resolve the dispute through a duly constituted court of law.

¹ (2004 (2) ALD Cr.477)

² 2002 (2) ALD (CrI.) 706 (A.P)

In the scheme of the Constitution of India, the duty to resolve civil disputes is entrusted to judiciary. Police have no such power. Any interference by police in a pending civil dispute or a potential civil dispute between two citizens or two groups of citizens is not within the province of the police. Furthermore, if a cognizable offence is reported to the police, it is the duty of the police to register the crime under Section 154 of the Code of Criminal Procedure, 1973 (Cr.P.C.) and take up investigation immediately. In a given case, even if a civil dispute, to say a land dispute, is pending before a civil court and if the quarrel between the two warring parties has a potential of resulting in a law and order problem posing threat to the society at large, the police can always take up the case only after registering the crime under Section 154 Cr.P.C. Without registering the crime and without any reason the police cannot interfere.

8. In view of the law declared by the Courts in the above judgment and the guidelines issued by the Ministry of Home Affairs vide Letters No. VI-24021797/84-GPA.I, dated 4-7-1985 and 10-7-1985, even if any crime is registered with regard to pending litigation before the Civil Court, the duty of the police is to advice the parties to resolve the dispute in duly constituted Civil Court and they cannot take up the issue.

9. Hence, respondent police are directed to follow the guidelines issued by the Ministry of Home Affairs vide Letters No.VI-24021797/84-GPA.I, dated 4-7-1985 and 10-7-1985 strictly. However, in view of the submission of learned Government Pleader for Home that respondent police cannot interfere with the pending litigation with reference to same property, which is subject matter of the crime.

10. Therefore, I am of considered view that it is a fit case to direct respondent police to follow the guidelines issued by Ministry of Home Affairs vide Letters No. VI-24021797/84-GPA.I, dated 4-7-1985 and 10-7-1985 strictly and not to interfere with civil

disputes except when any crime is registered for commission of a cognizable offence against the petitioner, only for limited purpose of investigation.

11. With the above direction, Writ Petition is ***disposed of***, at the stage of admission itself, with the consent of both the counsel. However, this Order will not preclude the respondent police to take appropriate action if any crime is registered against the petitioner for commission of any cognizable offence.

Consequently miscellaneous applications pending, if any, shall also stand closed.

JUSTICE M. SATYANARAYANA MURTHY

Date: 11.09.2020

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